V. REMARKS

Before addressing the issues in the outstanding Office Action, Applicants would like to mention that the applicants are perplexed by this Office Action. The Office Action Summary indicates that claims 1, 2 and 12-33 are pending in the application; immediately thereafter, the Office Action rejects and objects to claims 1, 2 and 14-33. Applicants are unsure of the status of claims 12 and 13 as well as the status of the remaining claims. Applicants respectfully request clarification of the status of the pending claims in a next non-final Office Action.

Claims 1 and 2 are provisionally rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claim 8 of copending Application No. 10/204,935. Claims 1 and 2 are provisionally rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claim 8 of copending Application No. 10/512,470.

In determining double patenting, the issue is whether any claim of the application defines merely an obvious variation of an invention **claimed** in the earlier patent or application. It does not prohibit a later claiming of subject matter that is disclosed but not claimed in the earlier patent or application. Double patenting is concerned with attempts to "claim" related subject matter twice. In re Gibbs, 437 F.2d 486, 168 USPQ 578 (CCPA 1971).

The instant claims recite, "An annealed wafer obtained by performing heat treatment...." as recited in claim 1 or ".... annealed wafer...." as recited in claims 14 and 18. Thus, wafers recited in the present claims are obtained by annealing such wafers. In other words, the wafer of the claimed invention is subjected to heat treatment (specifically, subjected to annealing). It is respectfully submitted that neither US application No. 10/204,935 (US 6,913,646 B2) nor US application No. 10/512,470 (Publication No. US 2005/0252441A1) discloses annealed wafers obtained by performing such heat treatment. US application No. 10/204,935 and US

application No. 10/512,470 merely discloses **non-annealed** wafer. In other words, the two cited applications disclose wafers **before** performing heat treatment (namely, wafers before annealing).

While the present invention relates to an annealed wafer obtained by performing heat treatment in order to form a DZ-IG structure (see the instant claims, the first paragraph of page 16 or the first paragraph of page 24 and etc.), the cited US applications are silent on such technique. Thus, at least for this reason, the claims of the application are not claiming the same inventions or an obvious version of the same invention twice.

It is respectfully submitted that, because such differences exist between the present invention and the cited applications, the rejection must be withdrawn.

Furthermore, the Examiner must establish a prima facie case of obviousness-type double-patenting or the rejection, if applied, will be reversed by the Board of Patent Appeals.

The Examiner is obligated to clearly set forth the basis of an obviousness-type double-patenting rejection. Under MPEP 804 II. B. 1., it states:

> Any obviousness-type double patenting rejection should make clear:
>
> (A) The differences between the inventions defined in the conflicting claims--a claim in the patent compared to a claim in the application; and
>
> (B) The reasons why a person of ordinary skill in the art would conclude that the invention defined in the claim in issue is an obvious variation of the invention defined in a claim in the patent.

It is respectfully submitted that the rejection is also improper because the Examiner fails to make clear the obviousness-type double patenting rejection,

particularly subparagraphs (A) and (B) above. As a result, it is respectfully submitted that the Examiner fails to establish a prima facie case of obviousness-type double patenting.

Withdrawal of the rejections is respectfully requested.

Claims 14-33 are provisionally rejected on the grounds of nonstatutory obviousness-type double patenting. However, the Examiner has failed to include the copending Application Number. As a result, Applicants are unable to address this provisional rejection. Applicants request that the Examiner set forth the copending Application Number for this provisional rejection in a subsequent non-final Office Action.

Furthermore, it appears that the Examiner merely "objects" or "provisionally rejects" claims 1, 2 and 14-33. Therefore, Applicants believe that, other than the provisional rejections set forth in the outstanding Office Action, the claims are allowable. However, if the Applicants are mistaken regarding allowability of the pending claims, Applicants request that the Examiner set forth any other substantive rejection(s) in a subsequent non-final Office Action.

Also, it is respectfully submitted that the Examiner fails to address claims 12 and 13 in the outstanding Office Action. It is respectfully submitted that the Examiner issue a subsequent "non-final" Office Action addressing claims 12 and 13 (in addition to providing a copending Application No. regarding the provisional rejection of claims 14-33).

In view of the foregoing, reconsideration of the application and allowance of the pending claims are respectfully requested. Should the Examiner believe anything further is desirable in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicants' representative at the telephone number listed below.

Should additional fees be necessary in connection with the filing of this paper

or if a Petition for Extension of Time is required for timely acceptance of the same, the Commissioner is hereby authorized to charge Deposit Account No. 18-0013 for any such fees and Applicant(s) hereby petition for such extension of time.

Respectfully submitted,

Date: April 11, 2007

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Enclosure(s): Amendment Transmittal

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